Political Responsibility and Resistance to Civil Government

David Lyons

Boston University School of Law, dbl@bu.edu

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Political Responsibility and Resistance to Civil Government

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Like most prominent theorists of civil disobedience, Thoreau was a practitioner too. His famous essay on the subject was delivered as a public lecture after his brief jailing for tax refusal. Although Thoreau refers there to that episode, he mainly discusses in general terms our moral responsibilities under governments that support unconscionable injustice. He thus broaches an issue that theorists have hardly discussed — the duty to address wrongs done to others by one’s government.

Thoreau’s essay influenced both Gandhi and King. Gandhi called it a “masterly treatise.” Nevertheless, although philosophers have recently written much about his subject, Thoreau’s ideas have largely been neglected.

This neglect is understandable. Thoreau was a brilliant prose stylist who could secure the attention of an audience and compel them to face discomfiting questions. But he was not a systematic theorist or rigorous analyst. An appraiser of Thoreau’s political writings might conclude that he could provoke political discussion and inspire resistance without illuminating basic moral issues.

The scholarly slighting of his essay might also be meant as benign neglect, for Thoreau’s views are controversial. His view of law and government is radical, compared with that of the philosophical literature on civil disobedience. Recent theorists maintain that true civil disobedience manifests respect for the prevailing political system; Thoreau tells us plainly how little respect it deserves. Recent theorists argue, moderately and defensively, that disobedience may sometimes be justified, at least if it is decorous and respectful. Thoreau contends rather that disobedience is morally required — that compliance with governmental policies like those he condemns is simply wrong. Paradoxically, he also appears to embrace an exceedingly narrow conception of political responsibility — so cramped as to suggest that he is preoccupied not with the suffering of those who have been wronged by laws and governmental policies but with his own moral purity.

This paper has two aims. One is to gain a clearer view of Thoreau’s ideas about political responsibility — especially what I shall call individual accountability, or the duty to address social wrongs; for I believe that the picture of Thoreau’s position I have just offered is inaccurate. Another aim is to suggest and to encourage discussion of a broader conception of political responsibility than our philosophical literature generally acknowledges — a conception capable of supporting a duty of disobedience in view of social wrongs.

Section I examines Thoreau’s controversial attitude towards law and argues that it is reasonable. Section II presents an initial interpretation of Thoreau on individual accountability. Section III compares the initial reading with other conceptions of accountability and offers a new interpretation of Thoreau.

I. Political Responsibility

Political obligation and the duty to disobey. I shall refer to the collection of moral requirements (such as duties or obligations) that may result from one’s belonging to a political community as political responsibility. Only one aspect of political responsibility
has been addressed extensively by theorists. That aspect is political obligation — a moral requirement of obedience to the law of one’s community. As it is usually understood, political obligation is comprehensive — a triply general requirement, applying to all members of a political community, all of its laws, and all occasions for compliance.

Because moral requirements can conflict, so that it becomes impossible to follow all of their guidance for conduct, most duties and obligations are best regarded as defeasible. A defeasible requirement calls on one to behave in a certain way, implying it would be wrong to behave otherwise unless the precept is outweighed in specific circumstances by some more pressing consideration. For this reason, as well as the fact that morally unconscionable laws can provide occasions for disobedience, political obligation is best construed as defeasible. If it were absolute it would be vastly more difficult, perhaps impossible, to defend. Most generously construed, then, political obligation amounts to a comprehensive moral presumption favoring compliance with law.10

To understand political obligation as defeasible is to imply that lawbreaking might sometimes be justified. Philosophers who have recently addressed civil disobedience have generally held that it can be justified. As this suggests, however, theorists have generally assumed that civil disobedience requires justification. They assume, in effect, that political obligation obtains. This can be seen as follows. One may think of civil disobedience broadly, as principled lawbreaking, but many theorists have recently defined civil disobedience narrowly — as lawbreaking that is public, nonviolent, performed by someone who accepts the prevailing system and willingly suffers the legal consequences of disobedience, or in other words as a conscientious, respectful, submissive, and decorous form of lawbreaking.11 Why might anyone regard such conduct as in need of justification? The only aspect of civil disobedience, so conceived, that might make it seem to need justification is its noncompliance with law. The belief that civil disobedience requires justification thus presupposes that lawbreaking itself requires justification. In other words, theorists of civil disobedience generally assume that political obligation obtains.12

The recent literature on civil disobedience was initially occasioned by resistance to admittedly unjust laws and social arrangements, such as the brutally oppressive system of white dominance known as Jim Crow.13 To assume political obligation in that context is to hold that moral justification is required even for disobedience to unconscionable laws and public policies. That is precisely the point of the doctrine. Critics and champions of political obligation both recognize that even the best system in the real world can encompass unjust laws. Most champions assume that political obligation obtains in some real world systems, such as that of the United States.

Political obligation was traditionally supposed to be grounded on a valid moral commitment by the individual to comply with all of the community’s laws. As it is implausible to suppose that all the members of a political community make such a commitment, one who embraces political obligation is well advised to seek more promising foundations. Recent theories have conditioned political obligation on a political system’s fundamentally just character or on the principle of fairness.

Theorists generally count principled lawbreaking as civil disobedience only if the resister respects the system as a whole and acknowledges a moral presumption favoring obedience to law. That is one reason why theorists assume that civil disobedience involves willing submission to arrest and punishment. In submitting, the resister expresses respect for the system as a whole and acknowledges having breached a moral obligation to comply.

That view of the matter contrasts sharply with the orientation of many resisters,
including Thoreau. Resisters often say that they could not in good conscience comply with the law. They see themselves as not merely justified in resisting unconscionable laws and governmental policies but as morally required to resist.

Despite such differences, the positions taken by theorists and resisters might be compatible. The claim that compliance would be wrong does not necessarily exclude acknowledgment of political obligation. Resisters could recognize an obligation to obey the law but regard it as overridden in the circumstances. In the complexity of concrete social situations, some moral principles can prescribe compliance while others call for noncompliance. Moreover, a practitioner's stress on a duty to disobey would be understandable, as it offers a more powerful justification for disobedience than an argument that merely makes disobedience morally permissible. Theorists' stressing an obligation to obey would likewise be understandable, if they wished to influence critics who assume that civil disobedience is wrong because there is a moral obligation to obey the law. Theorists sympathetic to civil disobedience might try to convert such critics by first acknowledging political obligation and then showing how an obligation to comply with the law can sometimes be overridden.

Much of the recent literature on civil disobedience developed in the context of vigorous civil rights campaigns and anti-war protests that were especially controversial when participants broke the law. The civil rights movement of the 1950s emerged in a period of political repression during the first stage of the Cold War. While officials at all levels in federal, state, and local governments were illicitly persecuting dissenters who acted within the law, civil rights activists not only challenged the established hierarchy but sometimes did so by breaking the law. Even worse, in the eyes of those in power, most civil rights activists were African Americans who were expected to know their place in the officially sanctioned system of white supremacy. It is no wonder, then, that many prominent persons criticized unlawful protests that were peaceful, public, nonviolent, morally motivated, and whose targets were legal arrangements that the critics agreed were morally indefensible, such as Jim Crow laws. Theorists sympathetic to civil disobedience saw that some of the critics mistakenly assumed that political obligation is absolute. Those theorists proceeded to explain that political obligation, like other obligations, is likely to be defeasible, in which case it can be outweighed, so that disobedience can sometimes be justified. Thus, their emphasis on an obligation to obey may well have been predicated on a wise strategy of argument aimed at converting critics.

Just as it is possible for resisters who stress a duty of obedience to acknowledge political obligation, it is possible for theorists who assume political obligation to recognize a duty to disobey. So the positions of theorists and resisters could be compatible; the differences between their expressed positions might merely be one of emphasis. All that is possible. But there is reason to believe they really disagree. On the one hand, theorists have not merely stressed political obligation; they have ignored the idea that political responsibility can include a duty to disobey. On the other hand, while some resisters may acknowledge an obligation to obey the law, along with the respect for the political system that acceptance of political obligation assumes, such an attitude is not, I believe, characteristic of resisters. Although I shall not try to defend that general claim here, I shall argue that Thoreau lacked such respect for the political system, did not accept an obligation to obey, and that his position was quite reasonable. 14 I shall consider first Thoreau's tacit rejection of political obligation and then turn later to his ideas about a duty to disobey.

Thoreau on law. Thoreau begins his essay by disparaging both government and law. "Government is at best an expedient; but most governments are usually, and all
governments are sometimes, inexpedient." (T 65) Political systems have no inherent virtue. Any respect they merit they must earn, and that is normally not much. The U.S.

system is no exception. Thoreau accordingly says,

It is not desirable to cultivate a respect for the law, so much as for the right .... Law never made men a whit more just; and, by means of their respect for it, even the well-disposed are daily made the agents of injustice. (T 65)

Undue respect for law leads the

mass of men [to] serve the State ... not as men mainly, but as machines, with their bodies. They are the standing army, and the militia, jailers, constables, &c .... Others, as most legislators, politicians, lawyers, ministers, and office-holders, serve the State chiefly with their heads; and, as they rarely make any moral distinctions, they are as likely to serve the devil, without intending it, as God. A very few ... serve the State with their consciences also, and so necessarily resist it for the most part; and they are commonly treated by it as enemies. (T 66)

But Thoreau neither expects nor demands perfection in government. “If the injustice is part of the necessary friction of the machinery of government, let it go, let it go: perchance it will wear smooth.” (T 73) He cautions potential resisters to consider whether the government “does enough good to counter-balance the evil,” (T 67) and “whether the remedy will not be worse than the evil.” (T 73) “But,” he says, “when the friction comes to have its machine, and oppression and robbery are organized, I say, let us not have such a machine any longer.” (T 67)

As those words may suggest, Thoreau’s position is shaped by his view of official conduct. Although he begins his tax refusal in protest of the federal government’s support of slavery and his state’s support of federal policies, by the time he delivers his lecture on civil disobedience the U.S. has invaded Mexico in an aggressive, expansionist war, designed in part to provide more space for chattel slavery. The U.S. government, he says, is “each instant losing some of its integrity.” (T 65) When jailed for tax refusal, Thoreau “saw that the State was half-witted ... and that it did not know its friends from its foes, and I lost all my remaining respect for it, and pitied it.” (T 80)

Thoreau perhaps comes closest to explicitly rejecting political obligation when he asserts that one should “break the law” in order to avoid becoming “the agent of injustice to another.” (T 73) That does not necessarily exclude a defeasible obligation to obey the law. Nevertheless, I think it reasonable to take his statements about law and government to imply a rejection of any comprehensive moral presumption favoring obedience to law. I now want to explain why that position itself is quite reasonable.

The claim that there is a moral presumption favoring obedience to law requires justification because just laws merit respect but unjust laws do not. If there is an initial moral presumption regarding unjust laws, it must be to regard them with disrespect. A sound argument is required to show why we should comply with them. This does not mean that political obligation is impossible or that there cannot be good reason to comply with unjust laws. It means that the burden of proof falls initially on the defender of political obligation. And it has amply been shown that the burden is difficult to sustain.16

We can understand why by considering Thoreau’s America. Shall we suppose that the African American slave, the Mexican whose homeland has been taken over by an invading American army, and the Native American who has lost freedom, land, and kin at the hands of the government are all morally bound to comply with all U.S. laws and official orders, including the laws most directly implicated in the government’s uncon-
Political Responsibility and Resistance to Civil Government

Scionable conduct? It does not seem much more far-fetched to claim that the Jews of the Warsaw Ghetto owed an obligation of obedience to the surrounding German forces.

No sound moral argument could show that every member of Thoreau’s political community had a moral duty or obligation to obey the law. To suppose otherwise is, for example, to endorse Chief Justice Taney’s statement in his Dred Scott opinion that African Americans “had no rights which the white man was bound to respect.” But African Americans were subject to legal restrictions. They were required by law to behave in certain ways, including ways prescribed by the laws maintaining chattel slavery. I see no reason to suppose that there was any moral presumption favoring their obedience to such laws. It is implausible to suppose that disobedience to their legally recognized masters or escape from their legally sanctioned enslavement required any moral justification at all. The mere fact that laws supported such a system could not by itself create a moral presumption to the contrary. But if African American slaves were not morally bound to obey all of the laws of their political community, that fact alone precludes a comprehensive moral presumption favoring obedience to law.

The point can be generalized, in two ways. The first point is suggested by Rawls when he says that

in the long run the burdens of injustice should be more or less evenly distributed over different groups within society, and the hardships of unjust policies should not weigh too heavily in any particular case. 18

That seems a necessary condition for a political system to merit respect. Political obligation is compatible with some kinds of injustice, but it is incompatible with deliberate, systematic, unjustifiable discrimination (or worse) against some segment of the political community. Compliance even with unjust laws might be morally required there, in special circumstances, e.g., if that were necessary in order to avoid worse injustice. But it could morally be required only on a circumstantial, case by case basis; it could never reasonably be assumed.

If that is right, it is questionable whether any known political system has merited political obligation. The facts of human history argue to the contrary.

This is not of course to say that individuals never have good reason to do what the law requires. A system supporting widespread injustice can have many just laws. For example, one should not, generally speaking, assault, cheat, coerce, harass, imprison, or kill another human being. Laws prohibiting such behavior can generally be justified, and governments can presumably be justified in enforcing such laws. A system can furthermore create moral reasons to comply with laws by coordinating behavior in fair and useful ways. Even victims of legally imposed injustice can have strong moral reasons to comply with unjust laws, if, for example, their disobedience can expose innocent persons to risks they have not agreed to take. Nor is this to say that there are no morally significant differences among systems. But none of this assumes or implies political obligation.

Second, the targets of deliberate, systematic discrimination are not the only members of a political community who cannot morally be bound to respect the responsible laws. It makes no moral sense to suppose that beneficiaries or third parties are morally required to support deliberate, systematic injustice. It seems even more outlandish to suppose that moral principles could routinely require citizens to contribute to the systematic oppression than to suppose that its victims are required to cooperate in their own oppression. Other things being equal, morality would support a blanket presumption against compliance.

These points can be bolstered by noting the implications in the real world of the most
widely accepted grounds of political obligation:

The *fairness principle*. Many theorists have been impressed by the promise of John Rawls's fairness argument. The argument seems, for example, reasonably to explain what others have vaguely suggested by speaking of a "social contract."

Rawls clarified the relevant notion of fairness by framing the general principle that, when one benefits from others' burdensome compliance with the requirements of a just and beneficial social practice, fairness requires that one comply with those requirements. The principle applies when a social practice produces goods that are available not only to persons who contribute to their production but also to persons who do not contribute. Some persons who receive such benefits are excused from contributing to their production because they merit special consideration (perhaps they are physically unable to do what the rules require). But others are simply "free-riders." They accept the benefits but fail to contribute to their production by complying with the rules, when it would be impossible for all to do so who had equal claims to the benefits. If everyone who had equal claims failed to comply with the rules, the benefits would not be produced. The idea, then, is that one who accepts the benefits is under an obligation to those persons who help produce them. One who accepts the benefits without assuming the burdens takes advantage of those persons on whose burdensome compliance one's beneficence depends.

Rawls then observed that some important benefits that we enjoy depend on others' compliance with the law. Apparently because some of these benefits, such as personal security, may be said to flow from the system as a whole (or, more precisely, from others' respect for law), Rawls supposed that the relevant social practice, for the application of the fairness principle, is the system as a whole. He argued that the fairness principle supports a comprehensive moral obligation to obey the law when one's benefits are generated by others' obedience to the law.

In condemning free-riding, the fairness principle may be said to require an equitable distribution of benefits and burdens. As Rawls notes, however, this assumes that the rules themselves distribute benefits and burdens fairly. Fairness cannot require one to be exploited by others — to acquiesce in an unjustly small share of benefits or an unjustly large share of burdens; but neither can it permit one to exploit others — to command an unjustly large share of benefits or an unjustly small share of burdens. If the benefits generated and the burdens imposed by the social practice are not distributed justly, the fairness principle does not apply. When laws support exploitation, such as chattel slavery or racial stratification, fairness does not require anyone to comply with those rules.

When the law supports unjust distributions of benefits and burdens, fairness cannot argue for compliance on anyone's part. But that limitation of the fairness argument cannot reasonably be seen as a shortcoming. When the argument fails to support a moral presumption favoring obedience because of unfairness in the law, that is as it should be.

So much for the fairness argument and compliance. Let us now consider its possible implications for noncompliance. As we have understood it, following Rawls, the fairness principle applies only to nonexploitative practices. But its root objection to one's deliberately taking advantage of others would seem to have wider application. Our reasoning suggests that the fairness principle derives from a broader moral conception that objects to exploitation generally, including exploitative practices. When social arrangements are exploitative, fairness calls for corrective action. When a social system permits or provides for exploitation, the fairness principle calls for reform. Insofar as resistance to prevailing arrangements is needed for reform, fairness requires resistance rather than conformity. Thus, reasoning that might theoretically be capable of accounting for political obligation seems likely in the real world to support resistance.
We can connect this with the spirit of the fairness principle, which emphasizes moral relations between individuals. According to the fairness account of political obligation, compliance is owed to other members of one's community. The fairness argument does not suggest that the government, the state, or its laws have any moral claim on us. It locates any valid claim in those who have helped produce the benefits we willingly enjoy. It is no wonder then that fairness calls for resistance to exploitative arrangements under which we live together. Such arrangements victimize other members of our community. Thus the moral conception that underlies the fairness principle supports a notion of political solidarity rather than conformity.

The duty of justice. Rawls has had second thoughts about fairness as a ground of political obligation. As now understood, the fairness argument does not apply to everyone who receives benefits from others' compliance with the rules of a fair and useful social practice. One who acquires a fairness-based obligation "has voluntarily accepted the benefits of the arrangement or taken advantage of the opportunities it offers to further one's interests." Rawls believes that this condition is not satisfied by ordinary citizens, but only by individuals who deliberately seek and obtain special benefits, such as entrepreneurs and those who pursue and secure public office. If one wishes to account for political obligation, an alternative theory is required. For this purpose Rawls now invokes the natural duty of justice, which "binds citizens generally and requires no voluntary acts in order to apply": This duty requires us to support and to comply with just institutions that exist and apply to us. It also constrains us to further just arrangements not yet established, at least when this can be done without too much cost to ourselves.

Two features of the duty are especially important here. First, like the fairness principle, its application is limited by considerations of social justice. The duty of justice can ground a comprehensive moral presumption favoring obedience to law, including unjust laws, but only within a political system that is basically just. Except in special circumstances, the duty of justice cannot require anyone to comply with laws that violate basic rights. Rawls says not only that "the duty to comply is problematic for permanent minorities that have suffered from injustice for many years," but also that "we are not required to acquiesce in the denial of our own or others' basic liberties." That is what we should expect of a general duty of justice.

Second, the duty of justice is even more clearly two-sided than the principle of fairness. It explicitly requires us to promote just institutions that do not yet exist (which means replacing unjust social arrangements) and to address social injustice. How one should do so depends, of course, on circumstances; but it seems clear that the duty of justice can call for resistance rather than conformity.

As the principle of fairness and the duty of justice concern individual conduct in a political context, they help to delineate political responsibility. Political theorists have perceived them as possible grounds of political obligation, and nothing said here rebuts that possibility. The problem with such arguments for political obligation is to be found, not in the principles, but in the real social circumstances, which rarely if ever satisfy the conditions required for the principles' application. Political systems have generally supported deliberate, systematic oppression of or unwarranted discrimination against some portion of their populations. No plausible moral principle could support a comprehensive presumption favoring obedience to law under those conditions. Political theorists rarely observe that these principles have implications for individual conduct when institutions are unjust. When justice or fairness can best be promoted by
disobedience, that's what those principles require. Thus, political responsibility goes significantly beyond political obligation, and it does not always counsel compliance with law.

Two further comments before moving on. First, morality can call for compliance to law in the midst of outrageous injustice because conditions can get worse as well as better. Compliance is then required, not as an expression of respect for the system, but as a means of preventing worse immoralities. 31

Second, to believe that the system under which one lives possesses deep moral flaws is neither to condemn one's neighbors nor to assume that the system is irremediable. It is often to recognize the need for principled resistance. 32

II. Tax Refusal

The initial reading of Thoreau. I have argued so far that Thoreau's rejection of political obligation was reasonable. I have also suggested a possible basis for the judgment of many resisters that they are morally required to resist. When their resistance is a response to societal injustice, we can account for that judgment in terms of a moral conception like the duty of justice. That is especially tempting in cases like Thoreau's, when resisters protest wrongs done to others. Thoreau's essay suggests, however, a quite different view.

Many of Thoreau's neighbors in Concord, Massachusetts, condemned governmental policies that supported slavery. Given the enormity of the evil, Thoreau regarded mere expressions of disapproval as inadequate. He began withholding payment of the Massachusetts poll tax in 1842 or 1843. He expected to be jailed and welcomed the prospect, for he wished to dramatize his protest. But he was not pressed for payment by the local tax collector (who was also the town constable, and a friend) until the summer of 1846. Persisting in his refusal, and inviting imprisonment, Thoreau was promptly locked up in Concord jail. His stay was unexpectedly brief, however, because someone paid the tax, contrary to his wishes.

Thoreau offered a public explanation of his tax refusal in the form of a lecture delivered in Concord (the work we have been considering). By the time he did so, in early 1848, there were new outrages to protest. The U.S. was invading Mexico, not least because those who profited from slavery sought more territory. 33 Thoreau thus says, when a sixth of the population of a nation which has undertaken to be the refuge of liberty are slaves, and a whole country is unjustly overrun and conquered by a foreign army, and subjected to military law, I think that it is not too soon for honest men to rebel and revolutionize. What makes this duty the more urgent is the fact, that the country so overrun is not our own, but ours is the invading army. (T 67)

Thoreau says one "cannot without disgrace be associated" with "this American government to-day .... I cannot for an instant recognize that political organization as my government which is the slave's government also." (T 67) But reform cannot be achieved by legal means, for "the State has provided no way" to remedy these evils: "its very Constitution is the evil." (T 74) So Thoreau invokes "the right of revolution; that is, the right to refuse allegiance to and to resist the government," (T 67) even if "blood should flow." (T 77)

Thoreau does not go on to propose a bloody rebellion, not because he champions nonviolence, but because he believed at the time that the revolution must first occur in the individual. Thus he urges personal resistance:

those who call themselves abolitionists should at once effectually
withdraw their support, both in person and in property, from the
government of Massachusetts. (T 74)

He translates this into tax refusal:

I meet this American government, or its representative the State
government, directly, face to face, once a year, no more, in the person
of the tax-gatherer ... and then it says distinctly, Recognize me; and the
simplest, the most effectual, and, in the present posture of affairs, the
indispensablest mode ... of expressing your little satisfaction with and
love for it, is to deny it then. (T 75)

Because of their further involvement with the government, officials must do more to
disengage:

If the tax-gatherer, or any other public officer, asks me, as one has
done, “But what shall I do?” my answer is, “If you really wish to do any
thing, resign your office.” (T 76-77)

Thoreau’s actual prescriptions for resistance may seem rather weak, given his
suggestion that a bloody revolution could be justified. It is unclear whether he believed
that tax refusal could have the desired impact. In one place he seems to say that it would:

I know this well, that if one thousand, if one hundred, if ten men whom
I could name, — if ten honest men only, aye, if one HONEST man, in
this State of Massachusetts, ceasing to hold slaves, were actually to
withdraw from this copartnership, and be locked up in the county jail
therefor, it would be the abolition of slavery in America. (T 75)

On a quick reading, this passage might seem to suggest that one person’s withdrawal of
support from the government would lead to radical reform. But that notion seems to be
falsified by Thoreau’s own case, for his tax refusal had no such repercussions. Also, he
does not imagine merely dissociating from the government but also “ceasing to hold
slaves.” That cannot be taken literally, as chattel slavery had already ended in
Massachusetts.

I shall not try to unlock the meaning of that passage. Instead, I shall quote another
passage in which Thoreau appears to explain the ground of his prescription for resistance:

(P) It is not a man’s duty, as a matter of course, to devote himself to the
eradication of any, even the most enormous wrong; he may still
properly have other concerns to engage him; but it is his duty, at least,
to wash his hands of it, and, if he gives it no thought longer, not to give
it practically his support. (T 71)

One has no overriding duty to battle injustice; but one may not ignore it: we are morally
bound to avoid complicity in wrongdoing.

If I devote myself to other pursuits and contemplations, I must first see,

at least, that I do not pursue them sitting upon another man’s

shoulders. (T 71)

“What I have to do is to see ... that I do not lend myself to the wrong which I condemn.”

(T 73) One must not be a party to injustice.

Passage (P) suggests that one’s accountability is limited to withdrawing support. That
means we need not help redress the wrongs that have already been done. This might
explain Thoreau’s recourse to tax refusal.

As I shall suggest, however, that reading commits Thoreau to an impoverished
conception of individual accountability. It suggests that his real concern is not the
enslaved African American, the subjugated Mexican, or the betrayed and displaced
Native American, but his conscience. He seems preoccupied with his own moral purity.
Before pursuing that point, we must take note of Hugo Bedau's commentary. Bedau interprets Thoreau's tax refusal as motivated by the desire "to exculpate [himself] from further complicity in injustice." (B 63) In that respect, my initial reading of Thoreau concurs. We are both also critical of the positions attributed to Thoreau, but on different grounds. I'll examine Bedau's comments here and offer my own in the next section.

Bedau understands Thoreau to hold that an individual taxpayer for his part authorizes the government to do what he knows it is doing and to some extent enables the government to do it. If the government acts unjustly, then the individual is morally required to revoke his authorization and to withdraw his support. (B 60-63) There is some textual basis for this finer-grained reading. We have seen, for example, that Thoreau says,

those who call themselves abolitionists should at once effectually withdraw their support, both in person and in property, from the government of Massachusetts. (T 74)

Passages like this suggest that Thoreau believes paying taxes involves two kinds of support. Support "in property" presumably refers to financial backing. Support "in person" is not so clear. Bedau believes it refers to one's authorizing the government's acts by paying taxes.

Thoreau seems to assume that his tax payment makes a difference to the government's ability to implement its policies. If he did not think so, it is unclear what he could mean by support "in property" and "[practical] support." In one place he says, "I do not care to trace the course of my dollar, if I could, till it buys a man, or a musket to shoot one with." (T 84) To imagine that his dollar buys any such thing is to suppose that his individual tax payment makes a non-negligible difference to the ability of the government to finance its policies.

It is unclear, however, whether Thoreau believes that in paying taxes he authorizes the government's acts. When he speaks of support "in person" he might be referring to the service that, as he observes, many citizens give to the government, some even allowing themselves to be used as cannon fodder. He does call on those who condemn the government's conduct "to dissolve .... the union between themselves and the State, — and refuse to pay their quota into its treasury." (T 72) This supports Bedau's reading if — but only if — we make two assumptions. Thoreau must also believe, first, that as tax refusal can dissolve the union between individuals and the state, tax payments create such a union. Second, Thoreau must believe that the union involves the individual's authorizing the state to implement its policies.

We have some reason to hold that Thoreau does not believe these things. He says, for example, that he always pays the road tax because he wants to be "a good neighbor." (T 84) Tax payments affect moral relations with his neighbors, not with the government that levies the tax. Furthermore, Thoreau suggests that tax refusal is a means for something more radical than withdrawing authorization of government policies:

It is for no particular item in the tax-bill that I refuse to pay it. I simply wish to refuse allegiance to the State, to withdraw and stand aloof from it effectually .... In fact, I quietly declare war with the State, after my fashion, though I will still make what use and get what advantage of her I can, as is usual in such cases. (T 84)

Tax refusal does not merely withdraw authorization of the government's conduct; it denies allegiance to the government.

The passage just quoted recalls another, in which Thoreau recounts his rejection of
the government’s demand that he support the local church, which he never attended. To remove his name from that roll, he was obliged to submit a formal statement that he did “not wish to be regarded as a member of any incorporated society which I have not joined.” (T 79) He could not do the same with his government. As he did not emigrate, he was regarded by the government as subject to its authority. We have already seen what he thinks of that. To make clear that he does not accept the government’s moral authority, he withholds the tax it levies. He acts so as to emphasize the morally neutral relation he already bears to the state. Thoreau does not understand his relation to the government in moral terms, nor does he see the government as his agent.

Bedau believes that Thoreau’s tax refusal can be understood as a morally principled act only if he embraces the following complex position:

A person becomes responsible for the acts of another (person, government) if and only if (and to the degree that) he (a) has authorized that other to act, or (b) has enabled that other to act, (c) knows that the other has used his position and authority to act, and (d) he continues to do (a) and (b), i.e., he does not act to revoke the authority granted or to prevent its abuse. Anyone at all responsible for unjust acts, whether of his own or of another’s, must act so as to acquit himself of the fault incurred by that responsibility. (B 61-62)

Bedau believes that this commits Thoreau to the notion that the quantity of one’s protest must equal one’s degree of complicity, and he faults this requirement as impossible to satisfy. (B 65) For there is no standard way to measure quantities of protest or degrees of responsibility, no less compare them.

But this criticism has unclear application to Thoreau, who never suggests that we measure protest or responsibility or that one should equal the other. Thoreau simply calls on us to withdraw personal and material support of the government. With no textual ground for the attribution, it seems ungenerous to interpret Thoreau as committed to a comparison that is admittedly impossible.

Bedau also says that Thoreau’s principle creates “an inescapably tragic dilemma” for resisters. (B 66) Tax refusal is supposed to reduce one’s responsibility for authorizing or enabling the government to implement unjust policies. By parity of reasoning, an individual who authorizes or enables the government to implement just policies incurs credit for its good works. As a consequence, “the very act by which [the tax withholder] exculpates his responsibility for injustice is also an act by which he removes support for his share of the just practices of government. Tax withholding is a very blunt social instrument.” (B 65-66)

This point assumes that reducing responsibility with merit along with responsibility with fault is no better than retaining both. But that is doubtful. Consider the worst case according to Bedau’s reasoning. If the government does more good than harm, tax refusal might result in a greater loss of moral credit than of moral fault. But that should not be cause for concern, because the tax refuser succeeds in avoiding all the fault that would be incurred by paying taxes while remaining capable of gaining moral credit through action as an independent moral agent. I see no “tragic dilemma” there.

But even the appearance of a dilemma arises only if Bedau is right in saying that tax refusal is a “blunt social instrument.” He seems to mean it is incapable of targeting just those policies and programs that are held to be objectionable. That seems to be mistaken.

Bedau’s reasoning assumes that tax payments go into a general fund which supports all governmental operations. By failing to pay the tax, one reduces support for good as well as bad programs. In fact, the results could be even worse than Bedau suggests. When
revenues are inadequate to fund all programs, the government may implement programs selectively and favor unjust programs. Tax refusal could be counter-productive.

There are three errors here. First, tax refusal is not necessarily a blunt instrument. A tax refuser can explain her protest and identify the laws and policies to which she objects. In his public lecture Thoreau explains his tax refusal and identifies the governmental policies he regards as unconscionable.

Second, a targeted program may be supported by revenue from a dedicated tax. One who wishes to withhold support from the program can refuse to pay that tax. If the poll tax were dedicated to the activities condemned by Thoreau, his refusal to pay would be discriminating in this respect.

The Massachusetts poll tax was probably not dedicated in that way. If so, Thoreau’s tax refusal could not be assumed to withhold material aid from the government’s support of slavery, its war on Mexico, or its treatment of Native Americans, without withholding support from desirable governmental programs.

But thirdly, and most importantly, Thoreau’s poll tax payment is unlikely to make any material difference. A single individual’s poll tax in a populous state involves too small an increment of revenue relative to the total that is either reasonably predictable or actually received to make any appreciable difference to the government’s financial resources. The same is true today of most individuals’ annual income tax assessments.

As we have seen, Thoreau appears to assume that his taxes make a difference to the government’s ability to finance its objectionable policies. If so, he was probably mistaken.

But the financial effect of tax refusal does not exhaust its material impact. Although the direct financial repercussions of tax refusal by a single individual may be negligible, tax refusal may nevertheless be a significant form of protest. Accompanied by an explanatory message, it can inspire others to resistance. Impressed by the commitment of a few resisters in the face of legal sanctions, officials might fear that many will follow their example and withhold their taxes or take other, concerted action. This can affect the government’s willingness to implement targeted programs. Thoreau was right to think that governments can be resisted “with some effect.” (T 85) Small numbers of resisters can have a big impact.

Bedau’s objections to the principle that he attributes to Thoreau are weak.37 They also seem directed at the wrong target. The reading we have both given to Thoreau does face a serious criticism, but it does not turn on the efficacy of tax refusal.

III. Individual Accountability

A narrow conception. To see the essential shortcoming of the view we have so far imputed to Thoreau, we can contrast it with the uncontroversial moral idea that we owe recompense to those we have wronged. Following Ross, I’ll call this the duty of reparation.38

Wrongs vary widely — from unfair judgments to betrayals, negligence to broken promises — as do their consequences. Partly for that reason, we cannot say much more about the requirements of reparation than that we must undo the wrongs we have done. That is, we should take appropriate measures to undo the wrongs; for we cannot be required to undo fully all the wrongs that we have done.

First, it may be impossible fully to undo a wrong. We may be unable to undo the damage done by an unwarranted insult or unfair judgment. We may be unable to secure all the resources necessary to repair a wrongful harm. We can no longer undo wrongs to those who have since died. I assume, however, that we are morally bound to address
the wrongs we ourselves have done, by ending them, alleviating them, and compensating for them as best we can.

Second, in redressing injuries, we are not free to disregard other moral requirements. Reparation is presumably a defeasible requirement; it may be overridden by more pressing moral claims.

Third, there may be limits to the degree of personal sacrifice one is morally required to make in redressing wrongs.

But the duty of reparation is also somewhat wider than it might at first appear. It presumably concerns not only wrongs we have done alone but also wrongs in which we have participated or are complicit. It seems to presuppose a condemnation of such wrongdoing. If so, it would seem to imply that we should stop that wrongdoing or at least do what we can to reduce it.

Perhaps most importantly, the duty of reparation calls on us to work with others where possible, inside or outside established political processes, to improve laws and institutions, reform public policies, and marshall resources to redress the wrongs that we have collectively done. This may well be the most demanding requirement of reparation. It converges with political responsibility.

The duty of reparation seems a minimal conception of one's individual accountability for social wrongs. Decency requires nothing less than addressing the wrongs that we ourselves have done or to which we have contributed. This is a narrow conception because it does not require us to address wrongs done to others that we ourselves have neither done nor aided. A minimal conception of individual accountability holds, in other words, that individual accountability is coextensive with individual responsibility.

The initial reading of Thoreau includes a notion of individual accountability that is narrower than this minimal conception in a fundamental way. The initial reading says that one must not be complicit in the government's injustices. If my government commits a crime, I must withdraw support. But that is all. To "wash one's hands" is to disengage and walk away. Thus Thoreau seems to hold that one need not act to prevent wrongdoing that might go on without one's involvement and — most important here — that one is not required to redress the wrongs already done in which one was complicit.

By contrast, the duty of reparation — or, in other words, the narrow conception — calls on us to help rectify those wrongs. The notion that we may merely disengage contradicts the idea that we owe recompense to those we have already wronged. Thoreau's rationale for tax refusal assumes that by paying taxes when we know of the government's crimes we are complicit in them. It would seem that Thoreau had earlier paid taxes while knowing of what the government was doing. The narrow conception requires him to help redress the wrongs to which he has already contributed. He is not free to "wash his hands" of the matter. The initial reading of his position denies that.

To call a conception of individual accountability "narrow" is to allow for the possibility that we are in fact morally required to address a wider class of social wrongs, including some wrongs for which we are in no way responsible. I will distinguish three ideas that go beyond the narrow conception.

Consider a young German who believes herself morally bound to help redress wrongs done under the Nazi regime before she was born. She believes it morally incumbent on her to contribute to compensatory measures, although she understands that she was not responsible for her government's wrongdoing. How can we interpret her moral convictions?

The problem is not that there is no wrong left to address. On the contrary, wrongs done years ago can result in wrongful suffering and handicaps today, if not for the original
victims then for others, such as their descendants. Recompense can still be required. The problem is how persons who were not parties to the original injustice could be morally required to address it.

A political conception. We should first consider the possibility that citizens are automatically accountable for the wrongs that have been done by their government, just because it is their government, even when they themselves were not parties to the government's wrongdoing. That idea might lie behind the young German's judgment that she is morally bound to help redress wrongs for which she does not hold herself responsible.

A political conception of individual accountability would seem to have a natural affinity to the assumption that citizens are morally bound to comply with the laws of their respective communities. Both may be considered specific expressions of the notion that citizenship automatically involves significant moral obligations. But the two ideas seem separable. One who believes it is incumbent on him to help prevent and redress wrongs done by his government could consistently deny that there is a comprehensive moral presumption favoring obedience to law.

Citizenship does not seem to be a condition of individual accountability. It is not a sufficient condition. Consider a former slave who was responsible neither for his enslavement nor for the disadvantages that result from his having been enslaved. It is implausible to regard him as morally required to help compensate himself for the wrongs that were done to him by others. If the government supported his enslavement, he is not morally required to help in such a way to redress some of the wrongs done by his government. The point may be generalized. Victims of a government's wrongdoing have a right to redress for those wrongs, not an unqualified duty to help redress them.

Citizenship is not a necessary condition of individual accountability, either. We may be morally required to address wrongs done by our government, but for reasons that are independent of our citizenship. Those who participate or are complicit in a government's wrongdoing need not be members of that political community. Operators of a profitable slave trade, for example, can be outsiders.

Because such a political conception is itself insupportable, it is incapable of supporting the idea that one is accountable for wrongs done by one's government for which one was in no way responsible. I shall now suggest two other conceptions of accountability that could support such a judgment.

Unjust enrichment. The young German might have an obligation to help redress wrongs done by her government before she was born, if she has benefitted from that wrongdoing, even though she had no other part in it. She might, for example, have inherited property that was expropriated from victims of the Third Reich. Although she did no wrong, some of her advantages might derive from injustices to others. She might enjoy a standard of living she would not otherwise have achieved. If so, she owes redress to those who have unjustly been disadvantaged by the wrong.

I do not pretend to know what redress might be required. It seems reasonable to suppose, for example, that she would be bound to share such a windfall with one who is worse off than she and who would have been better off but for the injustice. But even so simple (perhaps overly simple) a formula seems practically impossible to apply, as it relies on imponderable counterfactuals.

This suggests one reason why a political conception may seem plausible. Though unjust enrichment need by no means be distributed throughout a political community, it may be fairest and wisest to distribute the cost of whatever restitution is morally required. There may be no reliable and fair way to measure unjust enrichment or
legitimate claims. As governments alone may have the means and resources to effect compensation, the best approach might be for the government to provide some measure of restitution and distribute the costs among its citizenry.

A related consideration suggesting a political or community-wide approach is this. The persons who are most likely to have valid claims (or the most pressing claims) to restitution as a result of wrongs done by the government are those who need assistance. A humane and just community should undertake to address their needs in any case. There will be little if any need for restitution within a community that provides all of its members with basic economic, political, and social rights — or in a community that seriously commits itself to and embarks upon such a program.

We have already seen that accountable beneficiaries of a government’s wrongdoing need not be citizens. Now we can add that, even when they are citizens, their citizenship need not be the factor that determines their accountability, for unjust enrichment is not automatically distributed throughout a political community. For the reasons just given, however, a political or community-wide approach to accountability can be defended.

The idea of unjust enrichment might by explained, incidentally, by reference to the moral conception that underlies the principle of fairness. The principle condemns free-riding, which is exploitation on a small scale. As I suggested earlier, it would seem derivative of a broader moral conception that also condemns exploitation on a large scale, as in social practices distributing benefits and burdens inequitably. Unjust enrichment is a possible consequence of such inequity.

A wide conception. The duty of justice implies a wide conception of individual accountability for social wrongs, for we cannot promote justice without redressing injustice. The duty requires us not only to help eliminate unjust social arrangements but also to help redress the wrongs that others have suffered, no matter who has done them, even if we are in no way responsible for their having been done. The duty of justice makes it incumbent on each of us to play our part in righting them.

The duty of justice places no special importance on political boundaries. We have (at least in the abstract) no less of an obligation to address wrongs done on the other side of the world than those in our neighborhood.

Given the magnitude of suffering that flows from wrongdoing, that seems like quite a demanding doctrine. But its actual implications for conduct are limited by practical considerations. Qualifications like those we have noted for the duty of reparation apply here, too: we cannot be expected to do the impossible; even if the general duty of justice is itself preeminent, we must initially assume that the various specific requirements that flow from it are defeasible (as some of them may conflict with others); and there may be limits to the degree of personal sacrifice one is morally required to make in redressing wrongs.

To do any good at all we must also focus our efforts. We must consider not only the relative importance of different claims, but also where we can most effectively address social wrongs. Most individuals’ efforts can best be applied in their own political communities. That is generally where we can most effectively join forces with others — for collective action is generally necessary to address significant social wrongs. Furthermore, working in our home communities usually enables us to respect our other obligations, based on our past interactions and current relationships with others.

We may summarize our provisional findings as follows. First, I can be morally bound to help redress wrongs for which I was not responsible, if I have been unjustly enriched through them or — in any case — as a consequence of a general duty of justice. Second, both factors suggest a political approach to the redress of social wrongs.
Thoreau reconsidered. We are now in a position to review our initial reading of Thoreau. In constructing it, I ignored Thoreau’s qualifications as well as other passages in which Thoreau endorses reparation. The passage we relied upon is this:

(P) It is not a man’s duty, as a matter of course, to devote himself to the eradication of any, even the most enormous wrong; he may still properly have other concerns to engage him; but it is his duty, at least, to wash his hands of it, and, if he gives it no thought longer, not to give it practically his support. (T 71)

We took this to mean that one must disengage from wrongdoing but that one has no duty of reparation. This suggests that Thoreau is morally self-centered, concerned only to reduce his personal share of responsibility for the government’s wrongdoing.

But notice that Thoreau says a person is not morally bound “to devote himself” to correcting wrongs — that morality allows room for “other concerns.” That qualification leaves room for a duty of reparation. This revised reading is confirmed when Thoreau says that there are cases

in which a people, as well as an individual, must do justice, cost what it may. If I have unjustly wrested a plank from a drowning man, I must restore it to him though I drown myself .... This people must cease to hold slaves, and to make war on Mexico, though it cost them their existence as a people. (T 68):

This is not only to acknowledge the duty of reparation but to regard it as having great weight. If I am responsible to any degree for another’s wrongful injury, I may not simply cease my wrongdoing. I must do what I can to undo the wrong. Thoreau here establishes a basis for accountability in one’s past support for government actions which wrongfully injure others.

One might nevertheless wonder whether that is too generous a reading of Thoreau. The only action we have seen him take is tax refusal, and that would not seem to help repair the wrongs that have already been done. Because Thoreau believes that his tax payment would materially support the government’s wrongdoing, he assumes that refusing to pay withdraws what material support he might give. But that is only a prospective remedy (and an incomplete one too, as it does not minimize continued wrongdoing by the government); it does not redress any wrongful injuries to which, as he must believe, he has already contributed by paying taxes in the past. Either our initial reading was on the right track after all, and Thoreau’s seeming endorsement of reparation is misleading, or else Thoreau’s practice did not match his moral convictions.

It is quite possible that Thoreau did not live up to his professed principles. Few of us do. But there was more to his resistance than his essay reveals. As I noted at the start, Thoreau was not a rigorous analyst or systematic theorist. I suggest, however, that his moral instincts were sound, even if his analysis of tax refusal was faulty.

Thoreau was an active conductor on the Underground Railroad. This work began some time before his 1848 lecture on civil disobedience (his family home was a center of anti-slavery activity) and continued after enactment of the 1850 Fugitive Slave Act. Thoreau did not publicly discuss his assistance to fugitive slaves. To do so would have been irresponsible, as publicity might have endangered those he aided and might have closed a route to freedom.

Given his work on the Underground Railroad, Thoreau’s practice does not seem that of someone preoccupied with his own moral purity. For the 1850 act provided severe penalties for such activities. And his efforts increased as he perceived the greater need.
Thoreau did not devote himself to the abolition of slavery or to other radical reforms that he regarded as morally imperative. He did act as one who believes himself morally bound to aid those who are wronged and to help alleviate the wrongs. Because he seemed to assume that his tax payment materially supported the government's wrongdoing and that he had some responsibility for unconscionable government policies, his assistance of fugitive slaves could manifest either a narrow or a wide conception of individual accountability.

Unjust enrichment might also be relevant. Thoreau was, after all, a relatively privileged member of his society. He was not wealthy, but he lived on territory and used resources that had been seized by force, trickery, and terror from Native Americans. The standard of living that he enjoyed may well have been enhanced by his state's participation in the slave trade (and perhaps by its provisioning U.S. forces invading Mexico). This could explain Thoreau's accountability for the wrongs that he recognized.

It is important to stress the relevance of unjust enrichment because it applies to us today. One need not be a party to past injustices in order to owe redress to those of our neighbors who suffer from the legacy of past injustices. One need not embrace either an implausible political conception or even a wide conception of individual accountability to recognize our obligation to help redress our government's past wrongs. One need only forswear unjust enrichment. Given the considerable social and economic disadvantages imposed by past systems of injustice on immediate victims and their descendants, one need not be especially prosperous to be a possible beneficiary of unjust enrichment.

In considering alternative conceptions of individual accountability, I used the example of a young German who believes herself morally bound to help redress wrongs done by her government before she was born. I might instead have mentioned a young American who believes he is morally required to help redress wrongs done by his government during the periods of chattel slavery and subsequent racist regimes. If he is white and not impoverished, then he may well be the beneficiary of unjust enrichment.

But one need not have recourse to claims of unjust enrichment. The duty of justice will suffice. For racism continues, though its forms evolve. Exploitation, scapegoating, and brutal stratification are persisting features of our political community. Current policies intensify the injustices and rob our least powerful neighbors of their rights and dignity. On any plausible conception of individual accountability, it is incumbent on us to address those wrongs, as well as the legacy of past wrongs.

Boston University
School of Law
Notes

1 A recent ancestor of this paper was delivered at SUNY Brockport on October 5, 1995. I am grateful to Joe Gilbert for comments on that version and to Sandy Lyons for comments on the penultimate draft. Work on this paper was supported in part by a fellowship from the National Endowment for the Humanities and by sabbatic support from Cornell University, which I gratefully acknowledge. Some of the ideas developed in it derive from collaborative research and teaching with Matthew Lyons, who is not responsible for the shape they have assumed here.

2 Professor of Law, Boston University (Susan Linn Sage Professor of Philosophy Emeritus and Professor of Law Emeritus, Cornell University).


7 For a survey of the recent literature, see Paul Harris, ed., Civil Disobedience (Lanham, Md.: University Press of America, 1989). I address the political and analytic shortcomings of that literature in a companion paper.

8 I speak of “accountability” when referring to the moral requirement that one address social wrongs, in order to allow for its possible independence from personal responsibility for (e.g., complicity in) the wrongs.

9 Theorists usually refer to the governmental wrongs that are opposed by political resisters as “injustices.” That description is often apt; it also suggests the gravity of the government’s wrongdoing. However, the term does not fit some wrongs that have been addressed by resisters like Thoreau, which range from genocide to expansionist war. The distinction makes no difference for present purposes.

10 Such a presumption would presumably be limited to a particular community.
nuty and a morally relevant period of time.

11 Such a definition would exclude Thoreau's tax withholding; but the definition is not at issue here.

12 This is noteworthy because many contemporary political philosophers have come to the conclusion that political obligation does not in fact obtain. Political obligation is a intelligible idea, but it assumes social conditions that are rarely if ever satisfied.

13 It is at best misleading to refer to Jim Crow as a system of segregation, for it was brutally enforced and was inseparable from an ideology of white superiority.

14 I argue in a companion paper that Gandhi and King, as well as Thoreau, did not believe there is a comprehensive moral presumption favoring obedience to law. They too saw the need for radical change of the systems under which they lived.

15 Citations of this form refer to pages of Thoreau's essay in Reform Papers.


For insightful discussions of both civil disobedience and political obligation, see Kent Greenawalt, Conflicts of Law and Morality (Oxford: Clarendon Press, 1987).


20 Rawls, Theory of Justice, p. 112.

21 In his 1964 paper Rawls assumed political obligation (cf. p. 3). His account of political obligation in Theory of Justice applies only to just or "nearly just" societies, and Rawls makes no claim that political obligation obtains. On the contrary (as I note below), he indicates that its condition (satisfaction of the first principle of justice) does not exist (cf. pp. 226-227).

22 Joel Feinberg argues that some kinds of lawbreaking do not involve unfairness; see his "Civil Disobedience in the Modern World," Humanities in Society 2 (1979), especially 53-55 [reprinted in Civil Disobedience, ed. Paul Harris (University Press of America, 1989), pp. 169-171]. Feinberg's argument applies to some just laws in just societies. This suggests that it may be a mistake to apply the fairness argument to a legal system as a whole. Conversely, there may be beneficial and just social practices on a smaller scale to which a fairness argument applies, even within unjust societies.


Rawls, Theory of Justice, p. 115.


Rawls, Theory of Justice, p. 355, emphasis added. On pp. 226-227 Rawls explains how existing political systems, including those usually called democracies, substantially violate basic liberties. Thus Rawls should be distinguished from recent theorists of civil disobedience who assume political obligation and the conditions it presupposes. His theory concerns “nearly just” societies, not those we know.

This is important because our concern here is with justice, not with the details of Rawls’s theory.

Rawls does not develop this aspect of the duty as he does not deal extensively with non-ideal conditions.

Except as noted below.

Reasoning like this might argue for defense of the Union against the Confederacy as well as defense of independent governments in Latin America against U.S. attempts to replace them with more compliant regimes.

It is undoubtedly a virtue for a system to be capable of reform as a consequence of political resistance. That property should not be confused with the absence of profound systematic injustice.

Thoreau also mentions a third set of governmental crimes: without elaborating he refers to the wrongs done to Native Americans. (T 76)

Citations of this form refer to pages of the 1991 reprinting of Bedau’s essay, in Civil Disobedience.

It should be noted that Bedau refers to “the task of justifying civil disobedience” (B 66) when the only aspect of civil disobedience as he defines it (B 51) which might be thought to make it need justification is its illegality. Bedau thus assumes political obligation, and he seems to attribute the same assumption to Thoreau.

Bedau’s formulation may be incomplete. It implies that knowledge plus either authorizing or enabling is sufficient for incurring responsibility for the government’s injustices. The exculpating actions include revoking authority and preventing its abuse but do not include refusing (further) enablement.

Bedau also says that the principle he ascribes to Thoreau does not help to justify civil disobedience because it does not exclude violence, but he recognizes that resisters can have adequate independent reason for avoiding violence. (B 66) He says that the principle cannot justify indirect resistance by those who “do not see themselves as having any responsibility for the injustices they wish to protest,” (B 64), but he seems unsure whether this constitutes a failing of the principle or of those resisters.

39 The least demanding conception would require one to devote little effort and resources to redress wrongs and would allow the obligation to be overridden easily.

40 A political conception would presumably supplement rather than replace the narrow conception.

41 I refer here generally to those who normally reside in and are routinely subject to the laws of a political community, not to some privileged subclass called "citizens" who enjoy special status and who alone possess a full share of political rights.

42 One can have a duty to help redress wrongs done to oneself because one can have a duty to bring wrongs to public notice and to take appropriate action to rectify the wrongs, e.g., when others have also been victimized or others may well be wronged unless such action is taken. I am grateful to Susan Koniak for this suggestion.

43 Unjust enrichment, too, would presumably supplement rather than replace the narrow conception.

44 As I noted earlier, our concern here is with how we may reasonably understand a duty of justice. We are not concerned with any particular theory, such as Rawls's.

45 Though it is ambiguous: it could mean that one is not accountable for all social wrongs or that the duty (whatever its scope) is defeasible.

46 Weight must be distinguished from scope. To regard the duty of reparation as very strong is not to imply accountability for wrongs done entirely by others. Thoreau's examples may also mislead as to the weight he would assign the duty; in them reparation is totally impossible without great sacrifice.


48 The 1850 act, which amended the Fugitive Slave Act of 1793, committed not only the federal government much more strongly to the support of slavery but the states and the entire population, e.g., by subjecting individuals to conscription into search and capture parties and imposing severe penalties on private individuals for failing fully to cooperate and strict liability on officials for alleged fugitives who escaped from their care. (Its provisions for summary hearings also violated due process in allowing no testimony from alleged fugitives and awarding commissioners double fees when they judged slaveowners' claims favorably.)

49 Thoreau responded to the crises of the 1850s by endorsing more militant measures against slavery. After the raid on Harper's Ferry, Thoreau was the first and for some time the only public figure openly to defend John Brown. See Harding, Days of Henry Thoreau, pp. 415-426, on Thoreau's support of Brown and his aid for Brown's associates. His increasing militancy is evident in the Reform Papers essays: "Resistance to Civil Government" (1848), pp. 63-90; "Slavery in Massachusetts" (1854), pp. 91-109; and three essays on Brown (1859), pp. 111-153. See also the Textual Introductions in Reform Papers, pp.